IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

MFA.No. 444 of 2001()

AGAINST THE JUDGMENT IN OP(MV).1656/2001 DT.6.9.97 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA .
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APPELLANT: RESPONDENT NO.2.

DISTRICT INSURANCE OFFICER,
STATE INSURANCE DEPARTMENT,
ALAPPUZHA.

BY GOVERNMENT PLEADER SRI. NOBLE MATHEW

RESPONDENTS: PETITIONERS & RESPONDENT NO.1.
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1. **ARUNDHATHI, D/O.KARTHIYANI,**
PUTHENPURAYIL. KATTUNGAL VELI,
PUNNAPRA PO, ALAPPUZHA.

2. **P.S.SOMANATHAN, S/O.T.G.SUKUMARAN,**
PUTHENPURAYIL, KATTUNGAL VELI,
PUNNAPRA P.O., ALAPPUZHA.

3. **C.RAJAPPAN, S/O. K.RAMAN, EDAYIRATHU HOUSE,**
ERAZHA NORTH P.O.,
CHETTIKULANGARA, MAVELIKKARA.

ADDL. R4 TO R9 ARE IMPLEADED

4. **P.S.LEELA, D/O.LATE ARUNDHATHI, KANNITTAYIL HOUSE,**
PUNNAPRA NORTH P.O., ALAPPUZHA 688 014.

5. **P.S.SASIDHARAN, S/O.LATE ARUNDHATHI, PUTHENPURAYIL HOUSE, LAKSHMI NILAYAM, VADACKAL,**
ALAPPUZHA 3.

6. **S.VASUMATHY, D/O.LATE ARUNDHATHI,**
PADINJAREKARA HOUSE,
KUTHIRAPANTHY WARD, THIRUVAMBADY P.O.,
ALAPPUZHA 2.

**7. VASANTHY S., D/O. LATE ARUNDHATHI,
KANNAMPURAYIDOM, PUNNAPRA P.O.,
ALAPPUZHA 4.**

**8. RENGANATHAN S., S/O. LATE ARUNDHATHI,
PUTHANPURAYIL, KATTUNGALVELIYIL,
PUNNAPRA P.O., ALAPPUZHA 4.**

**9. P.S.PONNAMMA, D/O.LATE ARUNDHATHI,
VARADITHAYIL HOUSE,
PUNNAPRA P.O., ALAPPUZHA 4.**

ADDL.R4 TO R9 ARE IMPLEADED AS PER ORDER DTD.4.1.2007 ON IA. 1407/2006 .

BY ADV. SRI.K.K.SATHEESH

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.F.A. NO. 444 OF 2001

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Dated this the 5th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Alappuzha in O.P.(MV) 1656/94. One Suresh Chandra Babu aged 33 years died in a road accident on 25/7/1994 and his mother and brother had filed an application claiming compensation. The Tribunal has awarded a sum of Rs.1,71,600/- and it is against that decision the present appeal is preferred by the State Insurance Department.

2. Heard both sides. The learned Government Pleader submits that father was aged about 70 years even at the time of the accident and therefore the Tribunal had committed an error in fixing the multiplier at 16 whereas it has to only apply a multiplier of 5. In the award, the age of the first claimant is not shown but the daughter of the first claimant namely Leela has filed an affidavit before this Court for getting impleaded as I.A.1407/06 where her age is shown as 61 years. So it is clear that she would

be 49 years at the time of the accident and therefore even if the minimum age that can be fixed for the mother will be 67 years and not less. The mother is the real legal representative and others cannot claim the status of legal representative and therefore the appropriate multiplier to be used in this case is only 5. It is true that the Tribunal has taken his income at Rs.1,200/- per annum whereas the claimants claimed that the deceased was getting an amount of Rs.1,500/- as his income. We fix it at Rs.1,500/- deduct 1/3rd for personal expenses and applying a multiplier of 5 the loss of dependency compensation would come to Rs.60,000/-. The Tribunal has awarded Rs.15,000/- towards pain and sufferings, Rs.1,000/- towards transportation charges and Rs.2,000/- for funeral expenses. They are only just and reasonable and we do not find any ground to interfere with the same. But the Tribunal has not awarded any amount towards love and affection. Hence, we grant an amount of Rs.5,000/- under that head and also award a sum of Rs.2,500/- towards loss of estate. Therefore, the total compensation that the claimants are entitled to will be Rs.85,000/-.

3. In the result, the M.F.A. is disposed of as follows:

The award passed by the Claims Tribunal is modified and the claimants are awarded a compensation of Rs.85,000/- with 12% interest on the said sum from the date of petition till realisation and the State Insurance Department is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment. If any amount is already deposited that shall be given credit to and the balance need to be deposited. The claimants are at liberty to move the Tribunal for disbursement of the amount.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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K.S. RADHAKRISHNAN &
M.N. KRISHNAN, JJ.
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M.F.A. NO. 444 OF 2001
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J U D G M E N T

5th January, 2007.